CDRs Training Symposium

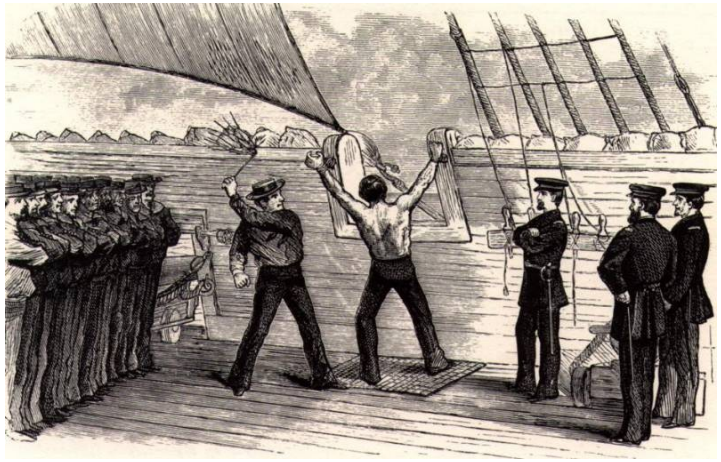
Standards of Conduct and other Legal Matters

CAPT Ken O'Rourke, JAGC, USN
Force Judge Advocate, CNSF

What are your concerns?

Fraternization?

Ethics?



Military Justice?

Miscellany?

CNSF N00J Line-up

- **CAPT Ken O'Rourke (N00J)**
  - **(619) 437-2210/(DSN) 577-2210**
  - **kenneth.orourke@navy.mil**
- **LCDR Tom Welsh (N00J1)**
  - **(619) 437-2059/(DSN) 577-2059**
  - **thomas.j.welsh@navy.mil**
  - **(Note: IA to Iraq; return Mar 07)**
- **LCDR (Sel) John Frajman (N00J2)**
  - **(619) 437-2054**
  - **(Note: IA to Iraq; return Mar 07)**
- **LT John Reese (N00J3)**
  - **john.b.reese@navy.mil**
  - **(619) 437-2053/(DSN) 577-2053**
  - **(Deploying to Iraq w/ MEF Jun 07)**

Standards of Conduct

Guiding Principle:

Government employees have a duty to place loyalty to the Consititution, law, and ethical principles above private gain.

Primary Resources:

DoD 5500.7-R (Joint Ethics Regulation)
5 C.F.R. 2635
SECNAVINST 4001.2G & OPNAVINST 4001.1G
Financial Mgmt. Regulation (FMR) Vol. 9, Ch. 3

www.ethics.navy.mil
www.defenselink.mil/dodgc/defense_ethics
www.usoge.gov

"Public service is a public trust."

Gifts

"Honey, what happened to the '86 Buick you drove to the Raytheon meeting?"

<u>GIFTS</u>: anything that has value is a gift.

NEVER use public position for private gain.

NEVER solicit for yourself or the Navy.

NEVER accept a gift without consulting your Ethics Counselor, unless you are absolutely positive it is okay under the rules.

NEVER GUESS! When in doubt, ask CAPT O'Rourke!

Gifts to the Command

ARCHBISHOP MOLLOY HIGH SCHOOL
JIM KINNIER STANNER GOLF CLASSIC
Payable to: ARCHBISHOP MOLLOY HIGH SCHOOL
GOLF CLASSIC GFT

- Always, always, always check with an Ethics Advisor/SJA prior to accepting any gift on behalf of the command!
- Guiding instructions:
  - DODINST 5500.7-R, JER
  - SECNAVINST 4001.2H

Use of Government Resources

Government employees have a duty to protect and conserve government property and shall not use such property, or permit its use, for other than authorized purposes. **This includes the use of military personnel and their services.**

Laws and regulations define "authorized purposes." Otherwise, it means uses which are appropriated for and essential to the mission.

Duty to disclose fraud, waste, and abuse.

Prohibited uses include criminal, commercial, some non-profit, religious, political, service discrediting, and mission-interfering activities.

"Yeah, but will it tow a skier and party barge?"

Limited Personal Use of Government Resources

How the Flag Sec kills time at the office.

- Responsible personal use of computer, phone, etc…
- Can’t adversely affect performance of duties
- Can’t be illegal
- Reasonable duration and frequency
- Serves legitimate public interest
- Would not reflect adversely on DoD
- No significant additional costs to the government
- Use official time in an honest effort to perform official duties

Government Transportation

DoD-owned or controlled transportation resources shall be used for official purposes only.

Command Vehicles are to be used to further the mission.

Prohibited uses include: private social functions, personal errands, personal business, transportation of family or visitors without escort or official purpose, and official functions in a personal capacity.

NFEs/Endorsement/Fundraising

Non-Federal Entities (NFEs) are all non-governmental organizations, including CFC, Navy/Marine Corps Relief, Boy/Girl Scouts, USO, businesses, etc…

Baseline:

No official endorsement, fundraising, or support, but there are exceptions!

"Let's have our next jamboree on a warship underway."

Exception #1

The Navy endorses, supports, and facilitates fundraising for:

- Combined Federal Campaign (CFC)
- Military Relief Societies
- OPM Emergency and Disaster Appeals
- Groups comprised of DoD employees/dependents where funds benefit welfare of own members (1st Class Assn, CPOA, etc…) “By our own, for our own.”

Exception #2

Logistical support may be possible (except for fundraising) for other NFEs *if* the following are met:

- No interference with Navy mission/duties
- Serves Navy interest
- Appropriate for Navy involvement
- Benefit to Navy or local community
- No preferential treatment to any NFE
- Does not violate regulations or statutes
- No/minimal entry fee
- (Note: this exception is intended for the support of charitable and non-profit events.)

Exception #3

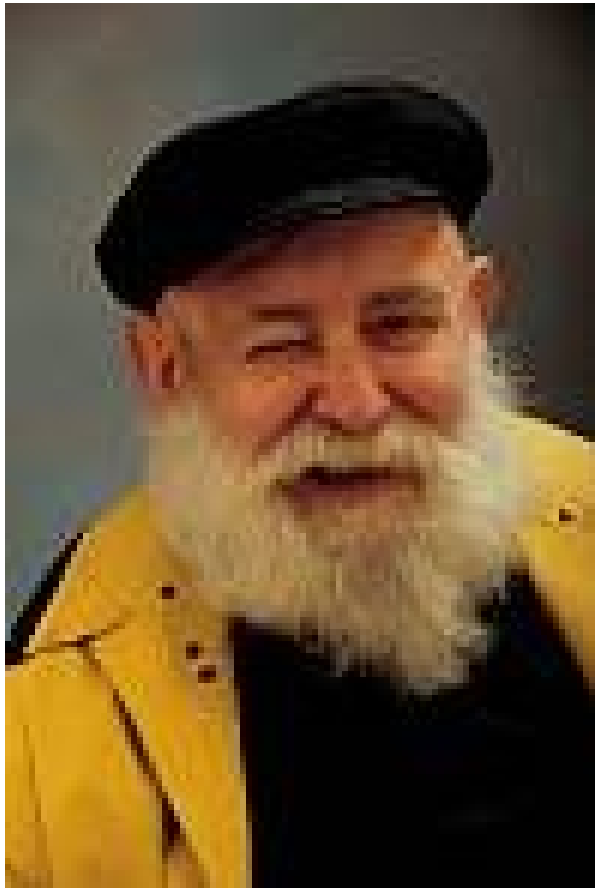
"Seriously, how about the jamboree?"

Contact your Ethics Counselor with questions about special relationships between DoD and certain groups like USO, Boy Scouts, Red Cross, etc... There are specific statutes that control these relationships, and different support arrangements have been established.

No-No's

Don't:

- Endorse or fundraise in your official capacity outside of the examples previously discussed.
- Use coercion, quotas, personal dollar goals, or supervisor inquiries to "encourage" fundraiser donations.
- Use "games of chance" gambling to fundraise.
- Use government property, special liberty awards, "no shave" chits, or civilian clothes privileges as incentives or prizes.
- Allow NFEs to compete or interfere with Navy Exchange sales.
- Support/endorse businesses in your official capacity.



"It was worth the $150.00 to CFC!"

Military Justice

"You want me to sign what?!"

- Post-trial action – It's not enough to just refer the case to trial. Once the court-martial is concluded and a guilty verdict is rendered, you're required to take further action.
- Examples of what happens when post-trial action is not completed.

No CA Action

E4 - ELLIOTT - Trial date was 27 Oct 00. SJAR done on 4 Oct 01...a year later...with no CA Action!

Charges - 45 day UA, 6 month UA, and missing movement. Sentenced to 60 days of confinement, RIR E2, BCD.

As a result of missing CA's Action the BCD was disapproved.

No CA Action

E4 - CURTS - Trial date was 10 Apr 04. CA Action was never done.

Charges - False official statement (3 specs) and larceny (BAH) of $21,000. Sentenced to 9 months of confinement, fine of $2,100; RIR E1, and a BCD. CDS1 CA

Corrective CNSF Action disapproved BCD.

Military Justice (cont.)

DUIs – While you're not precluded from Masting a Sailor who's awaiting disposition of a DUI offense in town, you should consult a JAG before taking such action for a couple of reasons.

JAGMAN Investigations

Ensure IOs are familiar w/ JAGMAN Ch. 2 and provide appointing letters that provide good "rudder."

Address accountability when appropriate!

Line of Duty determinations are REQUIRED in death cases; a written preliminary inquiry is needed AT A MINIMUM.

Admiralty Incidents

- **Facts ONLY**
- **Ensure OJAG (CODE 11) informed via msg or email**

Questions?